

Minutes of the Meeting  
Rules Committee  
January 25, 2010

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On Monday, January 25, 2010, the Rules Committee met in the Attorneys' Conference Room from 2:00 p.m. to 4:58 p.m.

Members in attendance were:

HON. PETER T. ZARELLA, CHAIR  
HON. BARBARA N. BELLIS  
HON. THOMAS J. CORRADINO  
HON. JACK W. FISCHER  
HON. LESLIE I. OLEAR  
HON. ANTONIO C. ROBAINA  
HON. JANE S. SCHOLL  
HON. MICHAEL R. SHELDON  
HON. CARL E. TAYLOR

Also in attendance were Carl E. Testo, Counsel to the Rules Committee, Attorneys Denise K. Poncini and Joseph Del Ciampo of the Judicial Branch's Legal Services Unit.

1. The members of the Committee who were present for the December 14, 2009, meeting unanimously approved the minutes of that meeting.

2. The Committee considered a proposal by Joseph D'Alesio to amend Section 4-7 to address concerns raised with regard to government-issued identification numbers.

After discussion, the Committee further revised the proposal and unanimously voted to submit to public hearing the revision to Section 4-7 as set forth in Appendix A attached hereto.

3. The Committee considered proposals by Attorney Daniel B. Horwitch, submitted at the request of Judge Bellis, to amend Sections 17-20 and 17-32 in light of the impact of e-filing on the procedures concerning the entry of defaults.

After discussion, the Committee unanimously voted to submit to public hearing the revisions to Sections 17-20 and 17-32 as set forth in Appendix B attached hereto.

4. The Committee considered a proposal by Maureen Finn, Chief Clerk of Centralized Small Claims, to amend Section 17-4 concerning fees for filing motions to open or set aside judgments in small claims matters.

After discussion, the Committee unanimously voted to submit to public hearing the revision to Section 17-4 as set forth in Appendix C attached hereto.

5. The Committee considered a proposal submitted by Attorney Horwitch to amend Section 2-53 concerning the manner in which standing committees on recommendations for reinstatement to the bar shall conduct their hearings and file their reports with the court.

After discussion, the Committee unanimously voted to submit to public hearing the revision to Section 2-53 as set forth in Appendix D attached hereto.

6. The Committee continued its consideration of a proposal by Attorney David Stamm, then Administrative Director of the Bar Examining Committee, to amend the rules concerning fitness to practice law; a report submitted by Attorney Anne Dranginis, Chair of the Bar Examining Committee, containing recommended Practice Book revisions implementing Attorney Stamm's proposal; and material concerning the solicitation of mental health information in connection with applications for bar admission.

The Rules Committee considered draft revisions submitted by the undersigned incorporating changes suggested by it at a prior meeting.

After consideration, the Committee unanimously voted to submit to public hearing the revisions to Sections 2-5, 2-8, 2-9, 2-12, 2-13, 2-15, 2-17, 2-18 and new Section 2-5A as set forth in Appendix E attached hereto.

The Committee tabled the issue of whether fitness to practice law should be included in Section 2-15A, concerning authorized house counsel.

7. The Committee considered a proposal submitted by Judge Pellegrino on behalf of the Civil Commission to amend the civil pleading rules; a letter from Attorney Edward Maum Sheehy to which he appends a proposed revision to the summary judgment rules; and submissions from Judges Corradino and Scholl concerning this matter.

After discussion, it was agreed that Justice Zarella and Judges Corradino and Scholl will meet to discuss certain issues concerning this proposal.

8. At a prior meeting the Committee considered a letter from the American Bar Association to Sr. Associate Justice David M. Borden concerning the ABA Model Court Rule on Provision of Legal Services Following Determination of Major Disaster. The Rules Committee decided at that meeting that Justice Zarella and the undersigned would draft a proposed new rule that would give the Rules Committee interim authority to adopt rules on an expedited basis in the event of an emergency declared by the Governor pursuant to General Statutes. §§ 19a-131a, 28-9, or both.

At this meeting the Committee considered the draft, suggested various revisions to it, and asked the undersigned to submit to the Committee at a future meeting a revised draft, incorporating the Committee's suggestions.

9. The Committee continued its consideration of proposals submitted by Judge Barbara M. Quinn, Chief Court Administrator, on behalf of the Civil Commission, to amend the discovery rules concerning electronically stored information; comments by Judge Barbara Bellis concerning the proposals; and Uniform Rules Relating to Discovery of Electronically Stored Information, submitted by Uniform State Law Commissioner David Biklen.

After discussion, the Committee tabled the matter.

10. The Committee considered correspondence from Attorney Robert S. Kolesnik with regard to Section 13-4 concerning disclosure of experts.

After discussion, the Committee decided that Section 13-4 need not be amended.

11. The Committee continued its consideration of a proposed new rule, submitted by an ad hoc committee composed of Justices Zarella and McLachlan and Judges Keller, Olear and Sheldon, establishing a pilot program to increase public access to juvenile proceedings in connection with Section 5 of P.A. 09-194; and a letter from Judge Barbara Quinn, Chief Court Administrator, on behalf of Juvenile Access Pilot Program Advisory Board concerning the proposal.

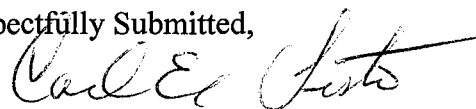
After discussion, the Committee further revised the proposal and unanimously voted to submit to public hearing proposed new Section 1-11D as set forth in Appendix F attached hereto.

12. The Committee at its October 19, 2009, meeting considered proposed new rules for family support magistrates that were submitted by Judge Lynda B. Munro on behalf of the Family Support Magistrate Rules Subcommittee. At that meeting the Rules Committee asked the undersigned to revise the draft so that all the family support magistrate rules are in one chapter.

At this meeting, the Committee considered the revised draft, made further revisions thereto, and unanimously voted to submit to public hearing the proposed new family support magistrate rules as set forth in Appendix G attached hereto.

13. Agenda items 6-12 and 6-14 were not reached by the Committee at this meeting.

Respectfully Submitted,



Carl E. Testo  
Counsel to the Rules Committee

CET:pt

**APPENDIX A (1-25-10 mins)**

**Sec. 4-7. Personal Identifying Information to Be Omitted or Redacted from Court Records in Civil and Family Matters**

(a) As used in this section, "personal identifying information" means: an individual's date of birth[,]; mother's maiden name[,]; motor vehicle operator's license number[,]; Social Security number[,]; other government issued identification number except for juris license, permit or other business-related identification numbers that are otherwise made available to the public directly by any government agency or entity[,]; health insurance identification number, or any financial account number, security code or personal identification number (PIN). For purposes of this section, a person's name is specifically excluded from this definition of personal identifying information.

(b) Persons who file documents with the court shall not include personal identifying information, and if any such personal identifying information is present, shall redact it from any documents filed with the court, whether filed in electronic or paper format, unless otherwise required by law or ordered by the court.

(c) The responsibility for omitting or redacting personal identifying information rests solely with the person filing the document. The court or the clerk of the court need not review any filed document for compliance with this rule.

COMMENTARY: This amendment clarifies that juris, license, permit or other business-related identification numbers that are otherwise made available to the public directly by any government agency or entity are not considered personal identifying information for the purpose of this section.

## APPENDIX B (1-25-10 mins)

### Sec. 17-20. Motion for Default and Nonsuit for Failure to Appear

(a) Except as provided in subsection (b), if no appearance has been entered for any party to any action on or before the second day following the return day, any other party to the action may make a motion that a nonsuit or default be entered for failure to appear.

(b) In an action commenced by a mortgagee prior to July 1, 2010, for the foreclosure of a mortgage on residential real property consisting of a one to four-family dwelling occupied as the primary residence of the mortgagor; with a return date on or after July 1, 2008, if no appearance has been entered for the mortgagor on or before the fifteenth day after the return day or, if the court has extended the time for filing an appearance and no appearance has been entered on or before the date ordered by the court, any other party to the action may make a motion that a default be entered for failure to appear.

(c) It shall be the responsibility of counsel filing a motion for default for failure to appear to serve the defaulting party with a copy of the motion. Service and proof thereof may be made in accordance with Sections 10-12, 10-13 and 10-14. Upon good cause shown, the judicial authority may dispense with this requirement when judgment is rendered.

(d) Except as provided in Sections 17-23 through 17-30, motions for default for failure to appear shall be acted on by the clerk [upon filing] not less than seven days from the filing of the motion and shall not be printed on the short calendar. The motion shall be granted by the clerk if the party who is the subject of the motion has not filed an appearance. The provisions of Section 17-21 shall not apply to such motions, but such provisions shall be complied with before a judgment may be entered after default. If the defaulted party files an appearance in the action prior to the entry of judgment after default, the default shall automatically be set aside by operation of law. A claim for a hearing in damages shall not be filed before the expiration of fifteen days from the entry of a default under this subsection, except as provided in Sections 17-23 through 17-30.

(e) A motion for nonsuit for failure to appear shall be printed on the short calendar. If it is proper to grant the motion, the judicial authority shall grant it without the need for the moving party to appear at the short calendar.

(f) The granting of a motion for nonsuit for failure to appear or a motion for judgment after default for failure to appear shall be subject to the provisions of Sections 9-

1 and 17-21. Such motion shall contain either (1) a statement that a military affidavit is attached thereto or (2) a statement, with reasons therefore, that it is not necessary to attach a military affidavit to the motion.

COMMENTARY: The above change is made to accommodate e-filing.

**Sec. 17-32. Where Defendant is in Default for Failure to Plead**

(a) Where a defendant is in default for failure to plead pursuant to Section 10-8, the plaintiff may file a written motion for default which shall be acted on by the clerk [upon filing] not less than seven days from the filing of the motion, without placement on the short calendar.

(b) If a party who has been defaulted under this section files an answer before a judgment after default has been rendered by the judicial authority, the clerk shall set aside the default. If a claim for a hearing in damages or a motion for judgment has been filed, the default may be set aside only by the judicial authority. A claim for a hearing in damages or motion for judgment shall not be filed before the expiration of fifteen days from the date of notice of issuance of the default under this subsection.

COMMENTARY: The above change is made to accommodate e-filing.

## APPENDIX C (1-25-10 mins)

### Sec. 17-4. Setting Aside or Opening Judgments

(a) Unless otherwise provided by law and except in such cases in which the court has continuing jurisdiction, any civil judgment or decree rendered in the superior court may not be opened or set aside unless a motion to open or set aside is filed within four months succeeding the date on which notice was sent. The parties may waive the provisions of this subsection or otherwise submit to the jurisdiction of the court.

(b) Upon the filing of a motion to open or set aside a civil judgment, except a judgment in a [small claims or] juvenile matter, the moving party shall pay to the clerk the filing fee prescribed by statute unless such fee has been waived by the judicial authority.

(c) The expedited procedures set forth in this subsection may be followed with regard to a motion to open a judgment of foreclosure filed by a plaintiff in which the filing fee has been paid, the motion has been filed prior to the vesting of title or the sale date, the plaintiff states in the motion that the committee and appraisal fees have been paid or will be paid within thirty days of court approval, and the motion has been served on each party as provided by Sections 10-12 through 10-17 and with proof of service endorsed thereon.

(1) Parties shall have five days from the filing of the motion to file an objection with the court. Unless otherwise ordered by the judicial authority, the motion shall be heard not less than seven days after the date the motion was filed. If the plaintiff states in the motion that all appearing parties have received actual notice of the motion and are in agreement with it, the judicial authority may grant the motion without a hearing.

(2) When a motion to open judgment is filed pursuant to this subsection, the court will retain jurisdiction over the action to award committee fees and expenses and appraisal fees, if necessary. If judgment is not entered or the case has not been withdrawn within 120 days of the granting of the motion, the judicial authority shall forthwith enter a judgment of dismissal.

COMMENTARY: The above change is made because Gen. Stat. § 52-259c provides that a fee shall be paid to the clerk upon the filing of a motion to open or set aside a judgment rendered in a small claims matter.

## APPENDIX D (1-25-10 mins)

### Sec. 2-53. Reinstatement after Suspension, Disbarment or Resignation

(a) No application for reinstatement or readmission shall be considered by the court unless the applicant, inter alia, states under oath in the application that he or she has successfully fulfilled all conditions imposed on him or her as a part of the applicant's discipline. However, if an applicant asserts that a certain condition is impossible to fulfill, he or she may apply, stating that assertion and the basis therefor. It is the applicant's burden to prove at the hearing on reinstatement or readmission the impossibility of the certain condition. Any application for reinstatement or readmission to the bar shall contain a statement by the applicant indicating whether such applicant has previously applied for reinstatement or readmission and if so, when. The application shall be referred, by the court to which it is brought, to the standing committee on recommendations for admission to the bar that has jurisdiction over the judicial district court location in which the applicant was suspended or disbarred or resigned, and notice of the pendency of such application shall be given to the state's attorney of that judicial district, the chair of the grievance panel whose jurisdiction includes that judicial district court location, the statewide grievance committee, the attorney or attorneys appointed by the court pursuant to Section 2-64, and to all complainants whose complaints against the attorney resulted in the discipline for which the attorney was disbarred or suspended or resigned, and it shall also be published in the Connecticut Law Journal.

(b) The standing committee on recommendations shall investigate the application, hold hearings pertaining thereto and render a report with its recommendations to the court. It shall take all testimony at its hearings under oath and shall include in its report subordinate findings of facts and conclusions as well as its recommendation. The standing committee shall have a record made of its proceedings which shall include a copy of the



application for reinstatement or readmission, a transcript of its hearings thereon, any exhibits received by the committee, any other documents considered by the committee in making its recommendations, and copies of all notices provided by the committee in accordance with this section.

(c) The court shall thereupon inform the chief justice of the supreme court of the pending application and report, and the chief justice shall designate two other judges of the superior court to sit with the judge presiding at the session. Such three judges, or a majority of them, shall determine whether the application should be granted.

[(b)] (d) The standing committee shall notify the presiding judge, no later than fourteen days prior to the court hearing, if the committee will not be represented by counsel at the hearing and, upon such notification, the presiding judge may appoint, in his or her discretion, an attorney to review the issue of reinstatement and report his or her findings to the court. The attorney so appointed shall be compensated in accordance with a fee schedule approved by the executive committee of the superior court.

[(c)] (e) The applicant shall pay to the clerk of the superior court \$200 at the time his or her application is filed. This sum shall be expended in the manner provided by Section 2-22 of these rules. If the petition for readmission or reinstatement is denied, the reasons therefor shall be stated on the record or put in writing. The attorney may not reapply for six months following the denial.

[(d)] (f) An attorney who has been suspended from the practice of law in this state for a period of one year or more shall be required to apply for reinstatement in accordance with this section, unless the court that imposed the discipline specifically provided in its order that such application is not required. An attorney who has been suspended for less than one year need not file an application for reinstatement, unless otherwise ordered by the court at the time the discipline was imposed.

[(e)] (g) In no event shall an application for reinstatement by an attorney disbarred pursuant to the provisions of Section 2-47A be considered until after twelve years from the date of the order disbaring the attorney. No such application may be granted unless the attorney provides satisfactory evidence that full restitution has been made of all sums found to be knowingly misappropriated.

COMMENTARY: The above changes set forth the manner in which standing committees on recommendations for reinstatement to the bar shall conduct their hearings and file their reports with the court.

**APPENDIX E (1-25-10 mins)**

**Sec. 2-5. –Examination of Candidates for Admission**

The committee shall further have the duty, power and authority to provide for the examination of candidates for admission to the bar; to determine whether such candidates are qualified as to prelaw education, legal education, [morals and fitness] good moral character and fitness to practice law; and to recommend to the court for admission to the bar qualified candidates.

COMMENTARY: The above changes are made for clarity.

**(New) Sec. 2-5A. –Fitness to Practice Law**

Fitness to practice law shall be construed to include the following:

(1) The cognitive capacity to undertake fundamental lawyering skills such as problem solving, legal analysis and reasoning, legal research, factual investigation, organization and management of legal work, making appropriate reasoned legal judgments, and recognizing and solving ethical dilemmas;

(2) The ability to communicate legal judgments and legal information to clients, other attorneys, judicial and regulatory authorities, with or without the use of aids or devices; and

(3) The capability to perform legal tasks in a timely manner.

COMMENTARY: The above rule makes clear what fitness to practice law entails.

**Sec. 2-8. Qualifications for Admission**

To entitle an applicant to admission to the bar, except under Sections 2-13 through 2-15 of these rules, the applicant must satisfy the committee that:

(1) The applicant is a citizen of the United States or an alien lawfully residing in the United States.

(2) The applicant is not less than eighteen years of age.

(3) The applicant is a person of good moral character, is fit to practice law, and has either passed an examination in professional responsibility administered under the auspices of the bar examining committee or has completed a course in professional responsibility in accordance with the regulations of the bar examining committee. Any inquiries or procedures used by the bar examining committee that relate to physical or mental disability

must be narrowly tailored and necessary to a determination of the applicant's current fitness to practice law, in accordance with the Americans with Disabilities Act and amendment twenty-one of the Connecticut constitution, and conducted in a manner consistent with privacy rights afforded under the federal and state constitutions or other applicable law.

(4) The applicant has met the educational requirements as may be set, from time to time, by the bar examining committee.

(5) The applicant has filed with the administrative director of the bar examining committee an application to take the examination and for admission to the bar, all in accordance with these rules and the regulations of the committee, and has paid such application fee as the committee shall from time to time determine.

(6) The applicant has passed an examination in law in accordance with the regulations of the committee.

(7) The applicant has complied with all of the pertinent rules and regulations of the committee.

(8) As an alternative to satisfying the committee that the applicant has met the committee's educational requirements, the applicant who meets all the remaining requirements of this section may, upon payment of such investigation fee as the committee shall from time to time determine, substitute proof satisfactory to the committee that: (A) the applicant has been admitted to practice before the highest court of original jurisdiction in one or more states, the District of Columbia or the commonwealth of Puerto Rico or in one or more district courts of the United States for ten or more years and at the time of filing the application is a member in good standing of such a bar; (B) the applicant has actually practiced law in such a jurisdiction for not less than five years during the seven-year period immediately preceding the filing date of the application; and (C) the applicant intends, upon a continuing basis, actively to practice law in Connecticut and to devote the major portion of the applicant's working time to the practice of the law in Connecticut.

COMMENTARY: The changes in subsection (3) above make clear, as set forth in Section 2-5, that fitness to practice law is a qualification for admission to practice law. Additionally, the above changes are intended to ensure that the bar admission process is administered in a way that comports with the requirements of the Americans with Disabilities Act and amendment twenty-one of the constitution of Connecticut. Inquiries,

screening procedures, and requests for health or treatment information that place additional burdens on persons with disabilities have been found to violate the Americans with Disabilities Act and the Connecticut constitution's express prohibition of disability discrimination unless they can be shown to be necessary to determine current fitness, and are narrowly tailored to achieve that goal. *See, e.g., In re Petition and Questionnaire for Admission to the Rhode Island Bar*, 683 A.2d 1333 (R.I. 1996); *Clark v. Virginia Board of Bar Examiners*, 880 F.Supp. 430 (E.D. Va. 1995); *Ellen S. v. Florida Board of Bar Examiners*, 859 F.Supp. 1489, 1493-94 (S.D. Fla. 1994); *Daly v. Delponte*, 225 Conn. 499, 512-17 (Conn. 1993); *see also* ABA Resolution 110 (1994). Further, any requests for medical records or information concerning an applicant's physical or mental health or substance abuse history must be conducted in a manner that complies with constitutional privacy protections, *see e.g., O'Connor v. Pierson*, 426 F.3d 187, 201-02 (2d Cir. 2005), and complies with federal and state statutes and regulations that safeguard the confidentiality of treatment records.

#### **Sec. 2-9. Certification of Applicants Recommended for Admission; Conditions of Admission**

(a) The committee shall certify to the clerk of the superior court for the county in which the applicant seeks admission and to the clerk of the superior court in New Haven the name of any such applicant recommended by it for admission to the bar and shall notify the applicant of its decision.

(b) The committee may, in light of the physical or mental disability of a candidate that has caused conduct or behavior that would otherwise have rendered the candidate currently unfit to practice law, determine that it will only recommend an applicant for admission to the bar conditional upon the applicant's compliance with conditions prescribed by the committee relevant to the disability and the fitness of the applicant. Such determination shall be made after a hearing on the record is conducted by the committee or a panel thereof consisting of at least three members appointed by the chair, unless such hearing is waived by the applicant. Such conditions shall be tailored to detect recurrence of the conduct or behavior which could render an applicant unfit to practice law or pose a risk to clients or the public and to encourage continued treatment, abstinence, or other support. The conditional admission period shall not exceed five years, unless the conditionally-admitted attorney fails to comply with the conditions of admission, and the

bar examining committee or the court determines, in accordance with the procedures set forth in section 2-11, that a further period of conditional admission is necessary. The committee shall notify the applicant by mail of its decision and that the applicant must sign an agreement with the bar examining committee under oath affirming acceptance of such conditions and that the applicant will comply with them. Upon receipt of this agreement from the applicant, duly executed, the committee shall recommend the applicant for admission to the bar as provided herein. The committee shall forward a copy of the agreement to the statewide bar counsel, who shall be considered a party for purposes of defending an appeal under Section 2-11A.

COMMENTARY: The changes in subsection (b) above make clear, as set forth in Section 2-5, that fitness to practice law is a qualification for admission to practice law. Additionally, the above changes are intended to ensure that conditional admission is administered in a way that comports with the requirements of the Americans with Disabilities Act and amendment twenty-one of the constitution of Connecticut. The amended rule is consistent with the approach of the American Bar Association's Model Rule on Conditional Admission to Practice Law (as amended in 2009). The above changes clarify that the mere existence of a disability cannot justify a denial of admission or the imposition of conditions; such steps are appropriate only if the disability causes behavior that affects the applicant's current fitness to practice law. Disability-related licensure conditions and reporting requirements must be narrowly tailored and necessary to protect the public. *See Daly v. Delponte*, 225 Conn. 499, 512-17 (1993).

#### **Sec. 2-12. County Committees on Recommendations for Admission**

(a) There shall be in each county a standing committee on recommendations for admission, consisting of not less than three nor more than seven members of the bar of that county, who shall be appointed by the judges of the superior court to hold office for three years from the date of their appointment and until their successors are appointed. The appointment of any member may be revoked or suspended by the judges or by the executive committee of the superior court. In connection with such revocation or suspension, the judges or the executive committee shall appoint a qualified individual to fill the vacancy for the balance of the term or for any other appropriate period. Appointments to fill vacancies which have arisen by reasons other than revocation or suspension may be made by the chief justice until the next annual meeting of the judges of the superior court,

and, in the event of the foreseen absence or the illness or the disqualification of a member of the committee, the chief justice may make a pro tempore appointment to the committee to serve during such absence, illness or disqualification.

(b) Any application for admission to the bar may be referred to the committee for the county through which the applicant seeks admission, which shall investigate the [general fitness of the applicant] applicant's moral character and fitness to practice law and report to the bar of the county whether the applicant has complied with the rules relating to admission to the bar, is a person of good moral character, is fit to practice law and should be admitted.

COMMENTARY: The changes in subsection (b) above make clear, as set forth in Section 2-5, that fitness to practice law is a qualification for admission to practice law.

**Sec. 2-13. Attorneys of Other Jurisdictions; Qualifications and Requirements for Admission**

(a) Any member of the bar of another state or territory of the United States or the District of Columbia, who, after satisfying the state bar examining committee that his or her educational qualifications are such as would entitle him or her to take the examination in Connecticut or would have entitled him or her to take the examination in Connecticut at the time of his or her admission to the bar of which he or she is a member, and that at least one jurisdiction in which he or she is a member of the bar is reciprocal to Connecticut in that it would admit a member of the bar of Connecticut to its bar without examination under provisions similar to those set out in this section, shall satisfy the appropriate standing committee on recommendations for admission that he or she (1) is of good moral character, is fit to practice law, and has either passed an examination in professional responsibility administered under the auspices of the bar examining committee or has completed a course in professional responsibility in accordance with the regulations of the bar examining committee; (2) has been duly licensed to practice law before the highest court of a reciprocal state or territory of the United States or in the District of Columbia if reciprocal to Connecticut and (A) has lawfully engaged in the practice of law as the applicant's principal means of livelihood in such reciprocal jurisdiction for at least five of the seven years immediately preceding the date of the application and is in good standing, or (B) if the applicant has taken the bar examinations of Connecticut and failed to pass them, the applicant has lawfully engaged in the practice of law as his or her principal

means of livelihood in such reciprocal jurisdiction for at least five of the seven years immediately preceding the date of the application and is in good standing, provided that such five years of practice shall have occurred subsequent to the applicant's last failed Connecticut examination; (3) is a citizen of the United States or an alien lawfully residing in the United States; (4) intends, upon a continuing basis, to practice law actively in Connecticut and to devote the major portion of his or her working time to the practice of law in Connecticut, and/or to supervise law students within a clinical law program at an accredited Connecticut law school while a member of the faculty of such school may be admitted by the court as an attorney without examination upon written application and the payment of such fee as the examining committee shall from time to time determine, upon compliance with the following requirements: Such application, duly verified, shall be filed with the administrative director of the bar examining committee and shall set forth his or her qualifications as hereinbefore provided. There shall be filed with such application the following certificates or affidavits: Affidavits from two attorneys who personally know the applicant certifying to his or her good moral character and fitness to practice law and supporting, to the satisfaction of the standing committee on recommendations for admission to the bar, his or her practice of law as defined under (2) of this section; where applicable, an affidavit from the dean of the accredited Connecticut law school at which the applicant has accepted employment attesting to the employment relationship and term; affidavits from two members of the bar of Connecticut of at least five years' standing certifying that the applicant is of good moral character and is fit to practice law, and a certificate from the state bar examining committee that his or her educational qualifications are such as would entitle the applicant to take the examination in Connecticut or would have entitled the applicant to take the examination in Connecticut at the time of his or her admission to the bar of which the applicant is a member; and an affidavit from the applicant certifying whether such applicant has a grievance pending against him or her, has ever been reprimanded, suspended, placed on inactive status, disbarred, or has ever resigned from the practice of law, and, if so, setting forth the circumstances concerning such action. Such an affidavit is not required if it has been furnished as part of the application form prescribed by the state bar examining committee.

(b) An attorney who, within the 7 years immediately preceding the date of application, was engaged in the supervision of law students within a clinical law program of one or more accredited law schools in another jurisdiction or jurisdictions while a



member of the faculty of such school or schools, whether or not any such jurisdiction is a reciprocal jurisdiction, may apply such time toward the satisfaction of the requirement of subdivision (a) (2) (A) of this section. If such time is so applied, the attorney shall file with his or her application an affidavit from the dean of the law school or schools of each such other jurisdiction attesting to the employment relationship and the period of time the applicant engaged in the supervision of law students within a clinical program at such school. An attorney so engaged for 5 of the 7 years immediately preceding the date of application will be deemed to satisfy the threshold requirement of subdivision (a) (2) of this section if such attorney is duly licensed to practice law before the highest court of any state or territory of the United States or in the District of Columbia whether or not such jurisdiction is reciprocal to Connecticut.

COMMENTARY: The changes in subsection (a) above make clear, as set forth in Section 2-5, that fitness to practice law is a qualification for admission to practice law.

#### **Sec. 2-15. —Permanent License**

(a) Not less than thirty nor more than sixty days before the expiration of such temporary license the applicant may file a motion that such license be made permanent with the clerk, who shall forthwith give notice thereof to the standing committee on recommendations for admission. Said committee shall claim the motion for the short calendar as soon as it is prepared to make recommendations thereon to the court. If it shall appear to the court at a hearing thereon that said applicant has, since admission, devoted the major portion of his or her working time to the practice of the law in the state of Connecticut and intends to continue so to practice, and that the applicant's [moral qualifications] good moral character and fitness to practice law remain satisfactory, such license shall be made permanent; but if the applicant shall fail to make such motion or if the court shall upon the hearing thereon refuse to make such finding, then said temporary license shall terminate upon its expiration, but the court may for good cause shown continue said hearing and extend said license for a period of not more than three months from the original date of its expiration.

(b) Provided, however, that whenever, during the period for which such temporary license may have been issued, such licensee has entered the military or naval service of the United States and by reason thereof has been unable to continue in practice in Connecticut, the period between such entrance and final discharge from such service, or

other termination thereof, shall not be included in computing the term of such temporary license; and upon satisfactory proof to the court hearing said motion for a permanent license of such entrance and discharge or other termination, and of compliance with the other requirements of this section, the court may make such license permanent.

COMMENTARY: The changes in subsection (a) above make clear, as set forth in Section 2-5, that fitness to practice law is a qualification for admission to practice law.

### **Sec. 2-17. Foreign Legal Consultants; Licensing Requirements**

Upon recommendation of the bar examining committee, the court may license to practice as a foreign legal consultant, without examination, an applicant who:

(1) has been admitted to practice (or has obtained the equivalent of admission) in a foreign country, and has engaged in the practice of law in that country, and has been in good standing as an attorney or counselor at law (or the equivalent of either) in that country, for a period of not less than five of the seven years immediately preceding the date of application;

(2) possesses the good moral character and [general] fitness to practice law requisite for a member of the bar of this court; and

(3) is at least twenty-six years of age.

COMMENTARY: The changes in subsection (2) above make clear that fitness to practice law is a qualification for those seeking to become licensed as foreign legal consultants under this section.

### **Sec. 2-18. —Filings to Become Foreign Legal Consultant**

(a) An applicant for a license to practice as a foreign legal consultant shall file with the administrative director of the bar examining committee:

(1) a typewritten application in the form prescribed by the committee;

(2) a certified check, cashier's check, or money order in the amount of \$500 made payable to the bar examining committee;

(3) a certificate from the authority in the foreign country having final jurisdiction over professional discipline, certifying to the applicant's admission to practice (or the equivalent of such admission) and the date thereof and to the applicant's good standing as an attorney or counselor at law (or the equivalent of either), together with a duly authenticated English translation of such certificate if it is not in English; and

(4) two letters of recommendation, one from a member in good standing of the Connecticut bar and another from either a member in good standing of the bar of the country in which the applicant is licensed as an attorney, or from a judge of one of the courts of original jurisdiction of said country, together with a duly authenticated English translation of each letter if it is not in English.

(b) Upon a showing that strict compliance with the provisions of Section 2-17 (1) and subdivisions (3) or (4) of subsection (a) of this section is impossible or very difficult for reasons beyond the control of the applicant, or upon a showing of exceptional professional qualifications to practice as a foreign legal consultant, the court may, in its discretion, waive or vary the application of such provisions and permit the applicant to make such other showing as may be satisfactory to the court.

(c) The committee shall investigate the qualifications, moral character, and [general] fitness of any applicant for a license to practice as a foreign legal consultant and may in any case require the applicant to submit any additional proof or information as the committee may deem appropriate. The committee may also require the applicant to submit a report from the National Conference of Bar Examiners, and to pay the prescribed fee therefor, with respect to the applicant's character and fitness.

COMMENTARY: The changes in subsection (c) above make clear that fitness to practice law is a qualification for those seeking to become licensed as foreign legal consultants under this section.

**APPENDIX F (1-25-10 mins)**

**(NEW) Sec. 1-11D. Pilot Program to Increase Public Access to Child Protection Proceedings**

(a) Pursuant to this section, the chief court administrator shall establish a pilot program to increase public access to trial proceedings in juvenile matters in which a child is alleged to be uncared for, neglected, abused or dependent or is the subject of a petition for termination of parental rights, except as otherwise provided by law or as hereinafter precluded or limited, and subject to the limitations set forth in section 1-10B, section 32a-7 and General Statutes § 46b-124. The pilot program shall be in a single district or session of the superior court for juvenile matters, to be chosen by the chief court administrator based on the following considerations:

(1) the age, size and ability of the courthouse facility to accommodate public access to available courtrooms, security and costs;

(2) the volume of cases at such facility and the assignment of judges to the juvenile district;

(3) the likelihood of the occurrence of significant proceedings of interest to the public in the juvenile district;

(4) the proximity of the juvenile district to the major media organizations and to the organizations or entities providing coverage; and

(5) the proximity of such facility to the Judicial Branch administrative offices.

(b) As used in this section, the term "trial proceeding" shall mean the final hearing on the merits of any juvenile matter not involving evidence or allegations of the sexual abuse of a child which concerns: (1) an order of temporary custody pursuant to section 33a-7 (d) or (e); (2) a petition alleging a child to be uncared for, neglected, abused or dependent; or (3) a petition for termination of parental rights. A trial proceeding shall be deemed to include all courtroom proceedings on any contested motion for review of permanency plan, motion to revoke commitment or motion to transfer guardianship which has been consolidated with the underlying proceeding for the final hearing on the merits. A trial proceeding shall commence with the swearing in of the first witness.

(c) Except as provided in this section or as otherwise provided by law, all trial proceedings in the pilot program shall be presumed to be open to the public.

(d) Upon written motion of any party, guardian ad litem, witness or other interested person, or upon its own motion, the judicial authority may at any time, prior to or during a

trial proceeding, order that public access to all or any portion of the trial proceeding be denied or limited if the judicial authority concludes that there is good cause for the issuance of such an order. In determining if good cause has been shown to deny or limit public access to a trial proceeding under this section, the judicial authority shall consider the child's best interest, the safety, legal rights, and privacy concerns of any person which may be affected by the granting or denial of the motion, and the integrity of the judicial process. Where good cause has been shown, the court may, in fashioning its order, consider whether there is any reasonable alternative to the issuance of an order limiting or denying public access to protect the interest to be served. An agreement of the parties to deny or limit public access to the trial proceeding shall not constitute a sufficient basis for the issuance of such an order.

(e) The burden of proving that public access to any trial proceeding governed by this section should be denied or limited shall be on the person who seeks such relief. Accordingly, any person moving for such relief, other than the judicial authority when acting upon its own motion, shall support the motion with an accompanying memorandum of law stating all known grounds upon which it is claimed that such relief should be granted. The motion and memorandum shall be served on all parties of record and be filed with the court, where they shall become parts of the confidential record of the underlying proceeding pursuant to General Statutes § 46b-124. Absent good cause shown, such motion and memorandum shall be served and filed not less than fourteen days before the trial proceeding is scheduled to begin, except that if the trial proceeding concerns a contested order of temporary custody case, they shall be served and filed not less than two days before the trial proceeding is scheduled to begin.

(f) Upon the filing of any motion to deny or limit public access to a trial proceeding governed by this section, or upon the determination of the judicial authority, upon its own motion, that the ordering of such relief should be considered, the judicial authority shall schedule a hearing on the motion and shall, where practicable, post a notice of the hearing on the judicial website so that all interested persons can attend the hearing and present appropriate legal arguments in support of or opposition to the motion. Such notice shall set forth the date, time, location and the general subject matter of the hearing, and shall identify the underlying proceeding solely by reference to the first name and first initial of the last name of the child who is the subject of the proceeding or, if the proceeding involves more than one child, by reference to the first name and first initial of the last

name of the eldest of the children involved. All memoranda of law and other written submissions in support of or in opposition to the motion shall be served on all parties of record and be filed with the court, where they shall become part of the confidential record of the underlying proceeding pursuant to General Statute § 46b-124.

(g) Notwithstanding the confidentiality of the motion to deny or limit public access, the accompanying memorandum, and all memoranda of law and other written submissions in support of or in opposition to the motion, the hearing on the motion shall be conducted in open court. Any person whose rights may be affected by the granting or denial of the motion, including any media representative, may attend and be heard at the hearing in the manner permitted by the judicial authority, but shall not be allowed intervening party status. The hearing shall be conducted by the judicial authority in a manner consistent with maintaining the confidentiality of the records of the underlying proceeding and protecting the interests for which denial or limitation of public access has been sought. At the conclusion of the hearing, the judicial authority shall announce its ruling on the motion in open court. If and to the extent that the judicial authority determines that public access to the trial proceeding should be denied or limited in any way, it shall articulate the good cause upon which it finds that such relief is necessary, shall specify the facts upon which it bases that finding, and shall order that a transcript of its decision become a part of the confidential record of the underlying proceeding pursuant to General Statutes § 46b-124. If, however, and to the extent that it further determines that any such articulation of good cause or specification of factual findings would reveal information that any interested person is entitled to keep confidential, then the judicial authority shall make such articulation and specification in a signed writing, which shall be filed with the court and become part of the confidential record of the underlying proceeding pursuant to General Statute § 46b-124. The decision shall be final.

(h) Prior to the commencement of any trial proceeding accessible to the public, the judicial authority shall hold a pretrial conference with counsel for all parties to anticipate, evaluate and resolve prospective problems with the conduct of an open proceeding and to ensure compliance with the protective provisions of subsection (d).

(i) The Rules Committee shall evaluate the efficacy of this section on or before December 31, 2010, and shall receive recommendations from the chief court administrator, the juvenile access pilot program advisory board and other sources.

COMMENTARY: Pursuant to Section 5 of Public Act 09-194, the above rule provides for the establishment of a pilot program to increase public access to certain juvenile proceedings.

APPENDIX G (1-25-10 mins)

SUPERIOR COURT—PROCEDURE IN CIVIL MATTERS  
CHAPTER 8  
COMMENCEMENT OF ACTION

**Sec. 8-2. Waiver of Court Fees and Costs**

(a) Prior to the commencement of an action, or at any time during its pendency, a party may file with the clerk of the court in which the action is pending, or in which the party intends to return a writ, summons and complaint, an application for waiver of fees payable to the court and for payment by the state of the costs of service of process. The application shall set forth the facts which are the basis of the claim for waiver and for payment by the state of any costs of service of process; a statement of the applicant's current income, expenses, assets and liabilities; pertinent records of employment, gross earnings, gross wages and all other income; and the specific fees and costs of service of process sought to be waived or paid by the state and the amount of each. The application and any representations shall be supported by an affidavit of the applicant to the truth of the facts recited.

(b) The clerk with whom such an application is filed shall refer it to the court of which he or she is clerk. [After such a hearing as the judicial authority determines is necessary under the particular circumstances, the judicial authority shall render its judgment on the application, which judgment shall contain a statement of the facts it has found, with its conclusions thereon.] If the court finds that a party is indigent and unable to pay a fee or fees payable to the court or to pay the cost of service of process, the court shall waive such fee or fees and the cost of service of process shall be paid by the state.

(c) There shall be a rebuttable presumption that a person is indigent and unable to pay a fee or fees or the cost of service of process if (1) such person receives public assistance or (2) such person's income after taxes, mandatory wage deductions and child care expenses is one hundred twenty-five per cent or less of the federal poverty level. For purposes of this subsection, "public assistance" includes, but is not limited to, state-administered general assistance, temporary family assistance, aid to the aged, blind and disabled, food stamps and supplemental security income.



(d) Nothing in this section shall preclude the court from finding that a person whose income does not meet the criteria of subsection (c) of this section is indigent and unable to pay a fee or fees or the cost of service of process. If an application for the waiver of the payment of a fee or fees or the cost of service of process is denied, the court clerk shall, upon the request of the applicant, schedule a hearing on the application.

COMMENTARY: The revisions to this Section make the section consistent with the provisions of General Statutes Section 52-259b.

**[Sec. 25-65. Family Support Magistrates; Procedure**

(a) The procedure in any matter which is to be heard and determined by a family support magistrate shall conform, where applicable, to the procedure in and for the superior court except as otherwise provided herein.

(b) Any pleading or motion filed in a family support magistrate matter shall indicate, in the lower right hand corner of the first page of the document, that it is a family support magistrate matter.

(c) Matters to be heard and determined by a family support magistrate shall be placed on the family support magistrate list.

(d) Matters on the family support magistrate list shall be assigned automatically by the family support magistrate clerk without the necessity of a written claim. No such matters shall be so assigned unless filed at least five days before the opening of court on the day the list is to be called.

(e) Matters upon the family support magistrate list shall not be continued except by order of a family support magistrate.]

COMMENTARY: The substance of this section is now contained in new Chapter 25A, Section 25A-1. This section is no longer necessary and should be repealed.

**[Sec. 25-66. Appeal from Decision of Family Support Magistrate**

Any person who is aggrieved by a final decision of a family support magistrate may appeal such decision in accordance with the provisions of General Statutes § 46b-231. The appeal shall be instituted by the filing of a petition which shall include the reasons for the appeal.]

COMMENTARY: The substance of this section is now contained in new Chapter 25A, Section 25A-20. This section is no longer necessary and should be repealed.

**[Sec. 25-67. Support Enforcement Services**

In cases where the payment of alimony and support has been ordered, a support enforcement officer, where provided by statute, shall:

(1) Whenever there is a default in any payment of alimony or support of children under judgments of dissolution of marriage or civil union or separation, or of support under judgments of support, where necessary, (A) bring an application to a family support magistrate for a rule requiring said party to appear before a family support magistrate to show cause why such party should not be held in contempt, or (B) take such other action as is provided by rule or statute.

(2) In connection with subdivision (1) above, or at any other time upon direction of a family support magistrate, investigate the financial situation of the parties and report his or her findings thereon to a family support magistrate which may authorize the officer to bring an application for a rule requiring any party to appear before a family support magistrate to show cause why there should not be a modification of the judgment.

(3) In non-TANF IV-D cases, review child support orders at the request of either parent subject to a support order or, in TANF cases, review child support orders at the request of the bureau of child support enforcement and initiate and facilitate, but not advocate on behalf of either party, an action before a family support magistrate to modify such support order if it is determined upon such review that the order substantially deviates from the child support guidelines established pursuant to General Statutes §§ 46b-215a or 46b-215b. The requesting party shall have the right to such review every three years without proving a substantial change in circumstances; more frequent reviews shall be made only if the requesting party demonstrates a substantial change in circumstances.]

COMMENTARY: An amended version of this section has been moved to new Chapter 25A, as Section 25A-21. This section is no longer necessary and should be repealed.

**(NEW) Chapter 25A  
Family Support Magistrate Matters**

COMMENTARY: This new chapter is intended to clarify what rules of practice are specifically incorporated in the family support magistrate court rules, and what rules are exclusive only to the family support magistrate court. They include rules that mirror, to the extent possible, the language of the Superior Court rules but are in an exclusive new

section based upon the sense that they vary sufficiently such that it was more efficacious to provide them as separate rules.

**(NEW) Sec. 25A-1. Family Support Magistrate Matters; Procedure**

(a) In addition to the specific procedures set out in this chapter, the following provisions shall govern the practice and procedure in all family support magistrate matters, whether heard by a family support magistrate or any other judicial authority. The word "complaint" as used in the rules referenced in this section shall include petitions and applications filed in family support magistrate matters.

(1) General Provisions:

- (i) Chapters 1, 2, 4, 5 and 6, in their entirety;
- (ii) Chapter 3, in its entirety except subsection (b) of Section 3-2, and Section 3-9;
- (iii) Chapter 4, in its entirety except Section 4-2;
- (iv) Chapter 7, Section 7-19.

(2) Procedures in Civil Matters:

- (i) Chapter 8, Section 8-1 and 8-2;
- (ii) Chapter 9, Sections 9-1, and 9-18 through 9-20;
- (iii) Chapter 10, Sections 10-1, 10-3 through 10-5, 10-7, 10-10, 10-12 through 10-14, 10-17, 10-26, 10-28, 10-31 through 10-34, 10-41 through 10-45 and 10-59 through 10-68;
- (iv) Chapter 11, Sections 11-1 through 11-8, 11-10 through 11-12 and 11-19;
- (v) Chapter 12, in its entirety;
- (vi) Chapter 13, Sections 13-1 through 13-3, 13-5, 13-8, 13-10 except subsection (c), 13-11A, 13-21 except paragraph (13) of subsection (a), subsections (a), (e), (f), (g) and (h) of Section 13-27, 13-28 and 13-30 through 13-32;
- (vii) Chapter 14, Sections 14-1 through 14-3, 14-9, 14-15, 14-17, 14-18, 14-24 and 14-25.
- (viii) Chapter 15, Sections 15-3, 15-5, 15-7 and 15-8;
- (ix) Chapter 17, Sections 17-1, 17-4, 17-5, 17-19, 17-21, subsection (a) of Sections 17-33, and 17-41;
- (x) Chapter 18, Section 18-19;
- (xi) Chapter 19, Section 19-19;
- (xii) Chapter 20, Sections 20-1 and 20-3;

(xiii) Chapter 23, Sections 23-20, 23-67 and 23-68.

(3) Procedure in Family Matters:

Chapter 25, Section 25-1, 25-9, 25-12, 25-16, 25-24, 25-61, 25-62 and 25-68.

(b) The term "judicial authority" and the word "judge" as used in the rules referenced in subsection (a) shall include family support magistrates where applicable, unless specifically otherwise designated.

(c) Any pleading or motion filed in a family support magistrate matter shall indicate, in the lower right hand corner of the first page of the document, that it is a family support magistrate matter.

(d) Matters to be heard and determined by a family support magistrate shall be placed on the family support magistrate list.

(e) Matters on the family support magistrate list shall be assigned automatically by the clerk without the necessity of a written claim. No such matters shall be so assigned unless filed at least five days before the opening of court on the day the list is to be called.

(f) Matters upon the family support magistrate list shall not be continued except by order of a judicial authority.

COMMENTARY: This section is intended to make clear, specifically, what rules of practice are applicable to the practice and procedure for Family Support Magistrate court. It is intended to be all-inclusive and eliminate the discretionary application of rules. It also specifies the manner of filing and the hearing procedures that are specific to Family Support Magistrate court.

As regards the incorporation of Section 6-2, judgment files in Family Support Magistrate court are prepared when necessary for appeals to the Appellate Court and Supreme Court and in certain interstate matters and shall be prepared by the clerk when needed.

As regards the incorporation of Section 13-5, it is intended that the purpose of the protective order in the Title IV-D context is solely to protect litigants against attempts by other litigants to seek discovery beyond that which was ordered disclosed by the judicial authority.

As regards the incorporation of Section 13-29, it is intended to recognize that the information gathering procedures and procedures regarding the taking of testimony such as those set out in the Uniform Interstate Family Support Act (UIFSA) which are different than

those set out in this section and that those procedures be utilized when a conflict arises with the provisions of subsections (b) and (c) of Section 13-29.

As regards the incorporation of Section 13-30, it is intended that the term "trial" as used in Section 13-30 includes hearings in Title IV-D child support matters.

As regards the incorporation of Section 19-19, it is suggested that Section 19-19 be deemed applicable to Family Support Magistrate court because, in rare instances, a Family Support Magistrate is confronted with a matter that requires a reference to an accountant. Those cases arise most often with regard to post judgment support enforcement actions that have originated in superior court, or with self-employed obligors.

Subsections (c) through (f) are similar to subsections (b) through (e) of Section 25-65.

**(NEW) Sec. 25A-1A. Prompt Filing of Appearance**

An appearance in Title IV-D child support matters should be filed promptly but may be filed at any stage of the proceeding.

COMMENTARY: This rule is based on Section 3-2 (b) and is intended to make clear the desire for a prompt filing of an appearance by an attorney for a party, but to recognize that an appearance should be able to be filed at any stage of the proceeding.

**(NEW) Sec. 25A-2. Withdrawal of Appearance; Duration of Appearance**

(a) An attorney or party whose appearance has been filed shall be deemed to have withdrawn such appearance upon failure to file a written objection within ten days after written notice has been given or mailed to such attorney or party that a new appearance has been filed in place of the appearance of such attorney or party in accordance with Section 3-8.

(b) An attorney may withdraw his or her appearance for a party or parties in any action after the appearance of other counsel representing the same party or parties has been entered. An application for withdrawal in accordance with this subsection shall state that such an appearance has been entered and that such party or parties are being represented by such other counsel at the time of the application. Such an application may be granted by the clerk as of course, if such an appearance by other counsel has been entered.

(c) All appearances of counsel shall be deemed to have been withdrawn 180 days after the entry of judgment in any action seeking a dissolution of marriage or civil union, annulment, or legal separation, provided no appeal shall have been taken. In the event of an appeal or the filing of a motion to open a judgment within such 180 days, all appearances of counsel shall be deemed to have been withdrawn after final judgment on such appeal or motion or within 180 days after the entry of the original judgment, whichever is later. Nothing herein shall preclude or prevent any attorney from filing a motion to withdraw with leave of the court during that period subsequent to the entry of judgment. In the absence of a specific withdrawal, counsel will continue of record for all postjudgment purposes until 180 days have elapsed from the entry of judgment or, in the event an appeal or a motion to open a judgment is filed within such 180 day period, until final judgment on that appeal or determination of that motion, whichever is later.

(d) Except as provided in subsections (a), (b) and (c), no attorney shall withdraw his or her appearance after it has been entered upon the record of the court without the leave of the court.

(e) All appearances of the chief child protection attorney appointed pursuant to General Statutes § 46b-123c shall continue until a motion to withdraw has been granted.

(f) All appearances entered on behalf of parties for matters involving Title IV-D child support matters shall be deemed to be for those matters only.

(g) All appearances entered on behalf of parties in the family division of the superior court shall not be deemed appearances for any matter involving a Title IV-D child support matter unless specifically so designated.

COMMENTARY: This section is similar to Section 3-9, but has been tailored to Family Support Magistrate court. Subsection (e) of this section is intended to clarify that the Chief Child Protection Attorney counsel must file a motion to withdraw as any other attorney.

This section regarding appearances and withdrawals is intended to clarify that an appearance in family court is not an appearance in IV-D court and vice versa. Without this clarification, members of the bar have been faced with a judicial authority counting their appearance for all matters where neither their retainer agreement covers the additional services nor is their sense of their own individual competence contemplated to cover services in the other court.

**(NEW) Sec. 25A-2A. Telephonic Hearings**

(a) In any case where mandated by law, the judicial authority shall upon written motion or on its own motion permit an individual to testify by telephone or other audio electronic means.

(b) In any case where permitted by law, the judicial authority may upon written motion or on its own motion permit an individual to testify by telephone or other audio electronic means.

(c) Upon an order for a telephonic hearing, the judicial authority shall set the date, time and place for such hearing and shall issue an order in connection therewith.

COMMENTARY: The Committee is concerned that some uniform practice be established for providing notice of and requesting telephonic hearings. Telephonic hearings are commonly used in Family Support Magistrate court for *Uniform Interstate Family Support Act (UIFSA)* proceedings.

**(NEW) Sec. 25A-2B. Signing of Pleading**

(a) Every pleading and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name. A party who is not represented by an attorney, and a support enforcement officer where appropriate, shall sign the pleadings and other papers. The name of the attorney, party or support enforcement officer who signs such document shall be legibly typed or printed beneath the signature.

(b) The signing of any pleading, motion, objection or request shall constitute a certificate that the signer has read such document, that to the best of the signer's knowledge, information and belief there is good ground to support it, that it is not interposed for delay, and that the signer has complied with the requirements of Section 4-7 regarding personal identifying information. Each pleading and every other court-filed document shall set forth the signer's telephone number and mailing address.

COMMENTARY: This section is similar to Section 4-2, but has been tailored to Family Support Magistrate matters. In Family Support Magistrate court, a support enforcement officer is an authorized person to sign a pleading.

**(NEW) Sec. 25A-3. Contents of Petition**

All petitions shall contain a concise statement of the facts constituting the cause of action, a demand for relief and the basis on which relief is sought.

COMMENTARY: This section is similar to Section 10-20, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-4. Automatic Orders upon Service of Petition**

(a) The following automatic orders shall apply to both parties, with service of the automatic orders to be made with service of process of a petition for child support. An automatic order shall not apply if there is a prior, contradictory order of a judicial authority. The automatic orders shall be effective with regard to the petitioner or the applicant upon the signing of the document initiating the action (whether it be complaint, petition or application), and with regard to the respondent, upon service and shall remain in place during the pendency of the action, unless terminated, modified, or amended by further order of a judicial authority upon motion of either of the parties:

(1) Neither party shall cause the other party or the children who are the subject of the complaint, application or petition to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(b) The automatic orders of a judicial authority as enumerated in subsection (a) shall be set forth immediately following the party's requested relief in any complaint, petition or application, and shall set forth the following language in uppercase letters: FAILURE TO OBEY THESE ORDERS MAY BE PUNISHABLE BY CONTEMPT OF COURT. IF YOU OBJECT TO OR SEEK MODIFICATION OF THESE ORDERS DURING THE PENDENCY OF THE ACTION, YOU HAVE THE RIGHT TO A HEARING BEFORE A JUDGE WITHIN A REASONABLE TIME. The clerk shall not accept for filing any complaint, petition or application that does not comply with this subsection.

COMMENTARY: This section contains the automatic orders from Section 25-5 that were deemed applicable to matters in Family Support Magistrate court. Actions for support brought in the name of the recipient of Title IV-D services require an affidavit to be signed by that recipient. This will provide the opportunity for the Department of Social Services' representative to give that recipient a copy of these automatic orders at that time.

**(NEW) Sec. 25A-4A. Order of Notice**



(a) On a petition for support or the establishment of paternity when the adverse party resides out of or is absent from the state or the whereabouts of the adverse party are unknown to the plaintiff or the applicant, any judge or clerk of the court may make such order of notice as he or she deems reasonable. If such notice is by publication, it shall not include the automatic orders set forth in Section 25A-4, but shall instead include a statement that automatic orders have issued in the case pursuant to Section 25A-4 and that such orders are set forth in the application or petition on file with the court. Such notice having been given and proved, the judicial authority may hear the application or petition if it finds that the adverse party has actually received notice that the application or petition is pending. If actual notice is not proved, the judicial authority in its discretion may hear the case or continue it for compliance with such further order of notice as it may direct.

(b) With regard to any motion for modification or for contempt or any other motion requiring an order of notice, where the adverse party resides out of or is absent from the state any judicial authority or clerk of the court may make such order of notice as he or she deems reasonable. Such notice having been given and proved, the court may hear the motion if it finds that the adverse party has actually received notice that the motion is pending.

COMMENTARY: This section is similar to Section 25-28, but has been tailored to Family Support Magistrate matters. It is noted that the *Uniform Interstate Family Support Act (UIFSA)* provides a means for notice under General Statutes § 46b-212d which provides an alternative basis for notice of the proceeding.

**(NEW) Sec. 25A-5. Motions**

(a) Any appropriate party may move for child support, appointment of counsel or guardian ad litem for the minor child, counsel fees, or for an order or enforcement of an order with respect to the maintenance of the family or for any other statutorily authorized relief.

(b) Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a postjudgment motion.

COMMENTARY: This section is similar to Section 25-24 and reflects the fact that relief is exclusively statutory in Family Support Magistrate court.

**(NEW) Sec. 25A-5A. — Motion to Cite in New Parties**

Any motion to cite in or admit new parties must comply with Section 11-1 and state briefly the grounds upon which it is made. In Title IV-D child support matters, a motion to cite in or admit new parties is limited to a parent, legal custodian or guardian.

COMMENTARY: There are no individuals other than a parent, legal custodian or guardian, with a proper interest in Title IV-D matters. This section is intended to clarify this situation and to prevent future problems. The Department of Social Services has a policy which allows a caretaker to receive public assistance and to have support payments redirected to such caretaker without obtaining a custody order pursuant to General Statutes Section 17b-112. See also General Statutes Sections 17b-137a and 46b-215(c) regarding the authority to redirect payments for the support for any child receiving child support enforcement services either to the State of Connecticut or to the present custodial party, as their interests may appear. This section clarifies that for purposes of being a party before the court the individual must have present legal custodial interests rather than the informal possession of a child that happens without court assistance; in those cases DSS may administratively redirect payments but they are not legal parties in interest.

**(NEW) Sec. 25A-6. Answer to Cross Complaint**

A plaintiff in a dissolution of marriage or civil union, legal separation, or annulment matter seeking to contest the grounds of a cross complaint may file an answer admitting or denying the allegations of such cross complaint or leaving the pleader to his or her proof. If a decree is rendered on the cross complaint, the judicial authority may award to the plaintiff such relief as is claimed in the complaint.

COMMENTARY: This section is similar to Section 25-10, but has been tailored to Family Support Magistrate matters. It makes clear that an answer is discretionary and not mandatory just as in family court.

**(NEW) Sec. 25A-7. Order of Pleadings**

The order of pleadings shall be:

- (1) the petition for establishment of paternity and/or a petition for support;
- (2) the defendant's motion to dismiss the petition;

- (3) the defendant's motion to strike the petition or claims for relief;
- (4) the defendant's answer, cross petition and claims for relief;
- (5) the plaintiff's motion to strike the defendant's answer, cross petition, or claims for relief;
- (6) the plaintiff's answer.

COMMENTARY: This section is similar to Sec. 25-11, but it has been tailored to Family Support Magistrate matters. The order of pleadings tracks the order in family court. It is specific for Family Support Magistrate court in that it refers to the support and paternity petition. No request to revise is permitted here just as it is not permitted in the family rules.

**(NEW) Sec. 25A-8. Reclaims**

If a motion has gone off the family support magistrate calendar without being adjudicated, any party may claim the motion for adjudication. If an objection to a request has gone off the family support magistrate calendar without being adjudicated, the party who filed the request may claim the objection to the request for adjudication. Any party may claim for adjudication any motion or request initiated by support enforcement services that has gone off without being adjudicated and a support enforcement officer may claim any motion or request initiated by support enforcement services that has gone off without being adjudicated.

COMMENTARY: This section is intended to clarify how a matter may be brought before the court for hearing if it has gone off. This section is similar to Section 11-13.

**(NEW) Sec. 25A-8A. –Continuances when Counsel's Presence or Oral Argument Required**

Matters upon the short calendar list requiring oral argument or counsel's presence shall not be continued except for good cause shown; and no such matter in which adverse parties are interested shall be continued unless the parties shall agree thereto before the day of the short calendar session and notify the clerk, who shall make note thereof on the list of the judicial authority; in the absence of such agreement, unless the judicial authority shall otherwise order, any counsel appearing may argue the matter and submit it for decision, or request that it be denied.

COMMENTARY: This section is based on Section 11-16, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-9. Statements to Be Filed**

(a) At least five days before the hearing date of a motion or order to show cause concerning alimony, support, or counsel fees, or at the time a dissolution of marriage or civil union, legal separation or annulment action or action for custody or visitation is scheduled for a hearing, each party shall file, where applicable, a sworn statement substantially in accordance with a form prescribed by the chief court administrator, of current income, expenses, assets and liabilities. When the attorney general has appeared as a party in interest, a copy of the sworn statements shall be served upon him or her in accordance with Sections 10-12 through 10-14 and 10-17. Unless otherwise ordered by the judicial authority, all appearing parties shall file sworn statements within thirty days prior to the date of the decree. Notwithstanding the above, the court may render pendente lite and permanent orders, including judgment, in the absence of the opposing party's sworn statement.

(b) Where there is a minor child who requires support, the parties shall file a completed child support and arrearage guidelines worksheet at the time of any court hearing concerning child support.

(c) At the time of any hearing, including pendente lite and postjudgment proceedings, in which a moving party seeks a determination, modification, or enforcement of any alimony or child support order, a party shall submit an Advisement of Rights Re: Wage Withholding Form (JD-FM-71).

COMMENTARY: This section is similar to Section 25-30 and makes clear that there is an expectation of proper financial affidavits in Family Support Magistrate court as provided herein. Some aspects of this are admittedly aspirational presently but should be the norm for the process.

**(NEW) Sec. 25A-10. Opening Argument**

Instead of reading the pleadings, counsel for any party shall be permitted to make a brief opening statement at the discretion of the judicial authority, to apprise the trier in general terms as to the nature of the case being presented for trial. The judicial authority shall have discretion as to the latitude of the statements of counsel.

COMMENTARY: This section is similar to Section 15-6, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-11. Motion to Open Judgment of Paternity by Acknowledgement**

(a) Any mother or acknowledged father who wishes to challenge an acknowledgement of paternity pursuant to General Statutes Section 46b-172(a)(2) shall file a motion to open judgment which shall state the statutory grounds upon which the motion is based and shall append a certified copy of the document containing the acknowledgment of paternity to such motion.

(b) Upon receipt of such motion to open and accompanying document, the clerk shall cause the matter to be docketed.

(c) Any action to challenge an acknowledgement of paternity for which there is no other family court file involving the same parties shall be commenced by an order to show cause accompanied by the motion to open judgment and the document containing the acknowledgment of paternity required by subsection (a) of this section. Upon presentation of the motion to open and the acknowledgment of paternity, the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested by the moving party should not be granted. The motion to open, acknowledgement of paternity and order shall be served on the adverse party not less than twelve days before the date of the hearing, which shall not be held more than thirty days from the filing of the challenge.

(d) Nothing in this section shall preclude an individual from filing a special defense of a challenge to a paternity judgment, or a counterclaim in response to a petition for support.

COMMENTARY: This section is intended to provide a standard process for a challenge to a paternity acknowledgement. These acknowledgments are not housed in the courthouse but have the statutory effect of a judgment. The challenge addressed by this rule was to find a means to create a process which also created a file with the judgment in it for clerk record keeping purposes. It is intended that the initial burden of proof be on the moving party. Subsection (d) is intended to make clear that while the judgment father may not have initiated a matter through this section, he is not precluded from seeking to open a judgment within an action claiming support against him, or as a special defense to a petition for support. The Family Commission voted to require that the copy of the

acknowledgement of paternity be certified. The majority voting of the Family Support Magistrate rules subcommittee thought this would be unduly burdensome.

**(NEW) Sec. 25A-12. Modification of Alimony or Support**

(a) Upon an application for a modification of an award of alimony or support of minor children, filed by a person who is then in arrears under the terms of such award, the judicial authority may, upon hearing, ascertain whether such arrearage has accrued without sufficient excuse so as to constitute a contempt of court, and, in its discretion, may determine whether any modification of current alimony and support shall be ordered prior to the payment, in whole or in part as the judicial authority may order, of any arrearage found to exist.

(b) In Title IV-D matters, upon any motion to modify support for minor children, where the motion sees to reduce the amount of support, the judicial authority may upon hearing, ascertain whether such arrearage has accrued without sufficient excuse so as to constitute a contempt of court, and, in its discretion, may determine whether any modification of current alimony and support shall be ordered prior to the payment, in whole or in part as the judicial authority may order, of any arrearage found to exist.

(c) Either parent or both parents of minor children, or any individual receiving Title IV-D services from the State of Connecticut may be cited or summoned by any party to the action, or in Title IV-D matters by support enforcement services of the judicial branch, to appear and show cause why orders of support or alimony should not be entered or modified.

(d) In matters where the parties, or other individuals pursuant to subsection (b) of this section, to a child support order are receiving Title IV-D services from the State of Connecticut, support enforcement services of the judicial branch may initiate a motion to modify an existing child support order pursuant to General Statutes Section 46b-231(s)(4) and, in connection with such motion, may issue an order and summons and assign a date for a hearing on such motion.

(e) If any applicant, other than support enforcement services of the judicial branch, is proceeding without the assistance of counsel and citation of any other party is necessary, the applicant shall sign the application and present the application, proposed order and summons to the clerk; the clerk shall review the proposed order and summons

and, unless it is defective as to form, shall sign the proposed order and summons and shall assign a date for a hearing on the application.

(f) Each motion for modification shall state the specific factual and statutory basis for the claimed modification and shall include the outstanding order and date thereof to which the motion for modification is addressed.

(g) On motions addressed to financial issues, the provisions of Section 25-30(a), (e) and (f) shall be followed.

COMMENTARY: This section is similar to Section 25-26, but has been tailored to Family Support Magistrate matters. The phrase "or any individual" in subsection (c) of this section refers to any individual receiving Title IV-D services for the child(ren) at issue.

**(NEW) Sec. 25A-13. Standard Disclosure and Production**

(a) Upon request by a party or as ordered by the judicial authority, opposing parties shall exchange the following documents within thirty days of such request or such order:

(1) all federal and state income tax returns filed within the last three years, including personal returns and returns filed on behalf of any partnership or closely-held corporation of which a party is a partner or shareholder;

(2) IRS forms W-2, 1099 and K-1 within the last three years including those for the past year if the income tax returns for that year have not been prepared;

(3) copies of all pay stubs or other evidence of income for the current year and the last pay stub from the past year;

(4) statements for all accounts maintained with any financial institution, including banks, brokers and financial managers, for the past 24 months;

(5) the most recent statement showing any interest in any Keogh, IRA, profit sharing plan, deferred compensation plan, pension plan, or retirement account;

(6) the most recent statement regarding any insurance on the life of any party;

(7) a summary furnished by the employer of the party's medical insurance policy, coverage, cost of coverage, spousal benefits, and COBRA costs following dissolution;

(8) any written appraisal concerning any asset owned by either party.

(b) Such duty to disclose shall continue during the pendency of the action should a party appear. This section shall not preclude discovery under any other provisions of these rules.

COMMENTARY: This section is similar to Section 25-32, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-14. Medical Evidence**

A party who plans to offer a hospital record in evidence shall have the record in the clerk's office twenty-four hours prior to trial. Counsel must recognize their responsibility to have medical testimony available when needed and shall, when necessary, subpoena medical witnesses to that end.

COMMENTARY: This section is similar to Section 15-4, but has been tailored to Family Support Magistrate matters. Medical evidence often is admitted into evidence in Family Support Magistrate court regarding an obligor's disability status.

**(NEW) Sec. 25A- 15. Experts**

As soon as is practicable, if a party, including the State of Connecticut, is going to rely on in court expert testimony, that party shall provide notice to all opposing parties, but said notice shall not be provided less than 14 days before the hearing. Discovery, facts unknown, and opinions held by experts may be ordered disclosed by the judicial authority on such terms and conditions as the judicial authority deems reasonable.

COMMENTARY: This section is based on Section 13-4 but provides a timetable more realistic for Family Support Magistrate court and creates a discretionary, reasonableness standard for Family Support Magistrate court. Experts are rarely utilized and therefore should be controlled as part of the constraints on discovery issues in general.

**(NEW) Sec. 25A-15A. Interrogatories; In General**

(a) In any action in the family support magistrate division to establish, enforce or modify a child support order, upon motion of any party and when the judicial authority deems it necessary, any party may be required to answer all or part of the interrogatories set forth in Form 207 of the rules of practice, which is printed in the Appendix of Forms in this volume.



(b) In any paternity action before the family support magistrate division interrogatories may only be served upon a party where the judicial authority deems it necessary.

(c) For good cause shown, in postjudgment matters, the judicial authority may upon motion authorize further discovery.

COMMENTARY: This section is based on Sec. 13-6, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-16. Answers to Interrogatories**

(a) Any such interrogatories shall be answered under oath by the party to whom directed and such answers shall not be filed with the court but shall be served within thirty days after the date of certification of service, in accordance with Sections 10-12, 10-14 and 10-17, of the interrogatories or, if applicable, the notice of interrogatories on the answering party, unless:

(1) Counsel file with the court a written stipulation extending the time within which answers or objections may be served; or

(2) The party to whom the interrogatories are directed, after service in accordance with Sections 10-12, 10-14 and 10-17, files a request for extension of time, for not more than thirty days, within the initial thirty-day period. Such request shall contain a certification by the requesting party that the case has not been assigned for trial. Such request shall be deemed to have been automatically granted by the judicial authority on the date of filing, unless within ten days of such filing the party who has served the interrogatories or the notice of interrogatories shall file objection thereto. A party shall be entitled to one such request for each set of interrogatories directed to that party; or

(3) Upon motion, the judicial authority allows a longer time.

(b) The party answering interrogatories shall attach a cover sheet to the answers. The cover sheet shall comply with Sections 4-1 and 4-2 and shall state that the party has answered all of the interrogatories or shall set forth those interrogatories to which the party objects and the reasons for objection. The cover sheet and the answers shall not be filed with the court unless the responding party objects to one or more interrogatories, in which case only the cover sheet shall be so filed.

(c) All answers to interrogatories shall repeat immediately before each answer the interrogatory being answered. Answers are to be signed by the person making them. The

party serving the interrogatories or the notice of interrogatories may move for an order under Section 25A-18 with respect to any failure to answer.

COMMENTARY: This section is similar to Section 13-7, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-17. Requests for Production, Inspection and Examination; In General**

(a) Upon motion and by order of the judicial authority, requests for production may be served upon any party without leave of court at any time after the return day. The moving party may serve on such party a notice of requests for production, which shall not include the actual requests, but shall instead set forth the number of the Practice Book form containing such requests and the name of the party to whom the requests are directed.

(b) If data has been electronically stored, the judicial authority may for good cause shown order disclosure of the data in an alternative format provided the data is otherwise discoverable. When the judicial authority considers a request for a particular format, the judicial authority may consider the cost of preparing the disclosure in the requested format and may enter an order that one or more parties shall pay the cost of preparing the disclosure.

(c) The party serving such request or notice of requests for production shall not file it with the court.

(d) A party seeking the production of a written authorization in compliance with the Health Insurance Portability and Accountability Act to inspect and make copies of protected health information, or a written authorization in compliance with the Public Health Service Act to inspect and make copies of alcohol and drug records that are protected by that act, shall file a motion pursuant to Section 13-11A.

COMMENTARY: This section is similar to Section 13-9, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-18. Order for Compliance; Failure to Answer or Comply with Order**

(a) If any party has failed to answer interrogatories or to answer them fairly, or has intentionally answered them falsely or in a manner calculated to mislead, or has failed to respond to requests for production or has failed to comply with the provisions of Section

25A-19, or has failed to appear and testify at a deposition duly noticed pursuant to this chapter, or has failed otherwise substantially to comply with any other discovery order made pursuant to Sections 13-8, 13-10 except subsection (c), 25A-15A, 25A-16 or 25A-17, the judicial authority may make such order as appropriate.

(b) Such orders may include the following:

(1) The entry of a nonsuit or default against the party failing to comply;

(2) The award to the discovering party of the costs of the motion, including a reasonable attorney's fee;

(3) The entry of an order that the matters regarding which the discovery was sought or other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(4) The entry of an order prohibiting the party who has failed to comply from introducing designated matters in evidence;

(5) If the party failing to comply is the plaintiff, the entry of a judgment of dismissal.

COMMENTARY: This section is similar to Section 13-14, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-19. Continuing Duty to Disclose**

If, subsequent to compliance with any request or order for discovery at any time the matter is before the court, a party discovers additional or new material or information previously requested and ordered subject to discovery or inspection or discovers that the prior compliance was totally or partially incorrect or, though correct when made, is no longer true and the circumstances are such that a failure to amend the compliance is in substance a knowing concealment, that party shall promptly notify the other party, or the other party's attorney, and file and serve in accordance with Sections 10-12, 10-14 and 10-17 a supplemental or corrected compliance.

COMMENTARY: This section is similar to Section 13-15, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-19A. Depositions; In General**

In addition to other provisions for discovery and subject to the provisions of Sections 13-2, 13-3 and 13-5, any party who has appeared in any Title IV-D matter or in

any matter under General Statutes §§ 46b-212 through 46b-213w where the judicial authority finds it reasonably probable that evidence outside the record will be required, may, at any time after the commencement of the action or proceeding, in accordance with the procedures set forth in this chapter, take the testimony of any person, including a party, by deposition upon oral examination. The attendance of witnesses may be compelled by subpoena as provided in Section 13-28. The attendance of a party deponent or of an officer, director, or managing agent of a party may be compelled by notice to the named person or such person's attorney in accordance with the requirements of Section 13-27 (a). The deposition of a person confined in prison may be taken only by leave of the judicial authority on such terms as the judicial authority prescribes.

Leave of the court for such a deposition is required. Motions for the taking of a deposition shall include the proposed notice of the deposition and the identification of such documents or other tangible evidence as may be sought to be subpoenaed. Only those documents or other tangible evidence approved by the judicial authority shall be permitted to be subpoenaed from the deponent.

COMMENTARY: This section is similar to Section 13-26, but has been tailored to Family Support Magistrate matters. While it makes clear that depositions may be taken in a Title IV-D matter, this section limits the taking of depositions by requiring leave of the court. Depositions are not needed in most of these expedited proceedings. The requirement of identification of documents (or other tangible evidence sought) will help clarify what complexity exists in the case to require the taking of a deposition, and limit and define its scope. This should prevent abuses of the process.

**(NEW) Sec. 25A-19B. –Place of Deposition**

(a) Any party who is a resident of this state may be compelled by notice as provided in Section 13-27 (a) to give a deposition at any place within the county of such party's residence, or within thirty miles of such residence, or at such other place as is fixed by order of the judicial authority. A plaintiff who is a resident of this state may also be compelled by like notice to give a deposition at any place within the county where the action is commenced or is pending.

(b) Except as otherwise required by law, a plaintiff who is not a resident of this state may be compelled by notice under Section 13-27 (a) to attend at the plaintiff's expense an examination in the county of this state where the action is commenced or is

pending or at any place within thirty miles of the plaintiff's residence or within the county of his or her residence or in such other place as is fixed by order of the judicial authority.

(c) Except as otherwise required by law, a defendant who is not a resident of this state may be compelled:

(1) By subpoena to give a deposition in any county in this state in which the defendant is personally served, or

(2) By notice under Section 13-27 (a) to give a deposition at any place within thirty miles of the defendant's residence or within the county of his or her residence or at such other place as is fixed by order of the judicial authority.

(d) A nonparty deponent may be compelled by subpoena served within this state to give a deposition at a place within the county of his or her residence or within thirty miles of the nonparty deponent's residence, or if a nonresident of this state within any county in this state in which he or she is personally served, or at such other place as is fixed by order of the judicial authority.

(e) In this section, the terms "plaintiff" and "defendant" include officers, directors and managing agents of corporate plaintiffs and corporate defendants or other persons designated under Section 13-27 (h) as appropriate.

(f) If a deponent is an officer, director or managing agent of a corporate party, or other person designated under Section 13-27 (h), the place of examination shall be determined as if the residence of the deponent were the residence of the party.

COMMENTARY: This section is based on Section 13-29, but has been tailored to Family Support Magistrate matters.

**(NEW) Sec. 25A-20. Appeal from Decision of Family Support Magistrate**

Any person who is aggrieved by a final decision of a family support magistrate may appeal such decision in accordance with the provisions of General Statutes § 46b-231. The appeal shall be instituted by the filing of a petition which shall include the reasons for the appeal.

COMMENTARY: This provision was originally Section 25-66 and has been moved to this chapter.

**(NEW) Sec. 25A-21. Support Enforcement Services**

In cases where the payment of alimony and/or support has been ordered, a support enforcement officer, where provided by statute, shall:

(1) Whenever there is a default in any payment of alimony or support of children under judgments of dissolution of marriage or civil union or separation, or of support under judgments of support, where necessary, (A) initiate and facilitate, but not advocate on behalf of either party, an application to a family support magistrate and issue an order requiring said party to appear before a family support magistrate to show cause why such party should not be held in contempt, or (B) take such other action as is provided by rule or statute.

(2) Review child support orders (A) in non-TFA IV-D cases at the request of either parent or custodial party subject to a support order, or upon receipt of information indicating a substantial change in circumstances of any party to the support order, (B) in TFA cases, at the request of the bureau of child support enforcement, (C) as necessary to comply with federal requirements for the child support enforcement program mandated by Title IV-D of the Social Security Act, and initiate and facilitate, but not advocate on behalf of either party, an action before a family support magistrate to modify such support order if it is determined upon such review that the order substantially deviates from the child support guidelines established pursuant to General Statutes §§ 46b-215a or 46b-215b. The requesting party shall have the right to such review every three years without proving a substantial change in circumstances; more frequent reviews shall be made only if the requesting party demonstrates a substantial change in circumstances.

(3) In connection with subdivision (1) or (2) above, or at any other time upon direction of a family support magistrate, investigate (A) the financial situation of the parties, using all appropriate information and resources available to the IV-D child support program, including information obtained through electronic means from state and federal sources in the certified child support system, or (B) information about the status of participation in programs that increase the party's ability to fulfill the duty of support and report his or her findings thereon to a family support magistrate and to the parties and upon direction of a family support magistrate facilitate agreements between parties.

COMMENTARY: This section was originally Section 25-67 and has been moved to this chapter with amendments. It is intended to clarify the actual role of Support Enforcement Services.

Form 207

**INTERROGATORIES-ACTIONS TO ESTABLISH, ENFORCE OR  
MODIFY CHILD SUPPORT ORDERS**

No. : SUPERIOR COURT  
(Plaintiff) : FAMILY SUPPORT MAGISTRATE DIVISION  
VS. : JUDICIAL DISTRICT OF  
: AT  
(Defendant) : (Date)

The undersigned, on behalf of the plaintiff/defendant, propounds the following interrogatories to be answered by the defendant/plaintiff within thirty (30) days of the filing hereof.

1. For your present residence:

- (a) what is the address?
- (b) what type of property is it (apartment, condominium, single family home)?
- (c) who is the owner of the property?
- (d) what is your relationship to the owner (landlord, parents, spouse)?
- (e) when did you start living at this residence?

2. List the names of all the adults that live with you.

- (a) For each adult you live with, what is your relationship to them (spouse, sibling, roommate, parent, girlfriend or boyfriend)?
- (b) For each adult you live with, what is their financial contribution to the household (who pays the rent, who pays the utilities, who buys the groceries)?

3. Give the name and address of your employer.

- (a) Are you employed full time or part time? Are you self employed? If you are self employed, do not answer (b) through (h) and go directly to question 4.

- (b) Are you paid a salary, by the hour basis, or do you work on commission or tips?
- (c) What is your income per week?
- (d) How many hours per week do you usually work?
- (e) Is overtime available, and if it is, how many hours per week do you work overtime and what are you paid?
- (f) Do you, or have you, ever received bonus income from your employment and what is the basis for the bonus?
- (g) Does your employer deduct federal and state taxes and Medicare from your wages or are you responsible for filing your own deductions? If you file, provide a copy of your most recent tax returns.
- (h) Do you have a second source of employment? If so, please provide the same information as requested in (a) through (g).

4. If you are self employed:

- (a) are you part of a partnership, corporation or LLC, and if you are, give the name of the business and your role in it?
- (b) name the other people involved in your business and their roles.
- (c) does the business file taxes (if so bring copies of the last two tax returns filed to your next court date)?
- (d) describe the work you do.
- (e) how many hours per week do you work, on average?
- (f) how much do you typically earn per hour?
- (g) list your business expenses, and what they cost per week.
- (h) state how you are typically paid (check or cash).
- (i) name the five people or companies you did most of your work for in the last year.
- (j) if you have a business account, what bank is it at (bring copies of the last six months of bank statements to your next court date)?



- (k) do you work alone or do you employ anyone and pay them wages? If you employ any one, please identify them, their relationship to you, if any, and the amount you pay them.
- (l) how do you keep your payment and expense records? Do you employ an accountant, and if so, please give the name and address of the accountant responsible for your records?

5. Except for your current job, list all the places you have worked for the last three years. For each place, list the address, the type of work you did, the dates you worked there and how much you were paid at each job.

6. If you cannot work because of a disability, what is the nature of your disability.

- (a) What is the date you became disabled?
- (b) Is this disability permanent or temporary?
- (c) If a doctor has told you that you cannot work, what is the name of the doctor and his or her office (bring a note from this doctor stating that you cannot work to your next court date)?
- (d) If a doctor has told you that you cannot work, did he or she say you cannot work full time or part time?
- (e) If you have a partial or permanent disability, please provide the percentage rating.
- (f) Is your disability the result of an automobile accident, an accident at work, an accident at home or otherwise? Please give the date and details of the incident and whether you have filed a lawsuit or worker's compensation claim as a result.
- (g) Have you had any children since the incident? If so, list their dates of birth.

7. Have you applied for Social Security Disability (SSD) or Supplemental Security Income (SSI)?

- (a) If you did, when did you apply and where are you in the application process?

- (b) Have you been told if or when you will receive benefits? If so, who told you and what is the date they gave you?
- (c) If your application for SSD and /or SSI has been denied, did you appeal? If you appealed, what is the status of the appeal and what lawyer, if any, represents you?
- (d) Have you applied for or are you receiving State assistance?
- (e) Are you a recipient of the State supplement program, medical assistance program, temporary family assistance program, state-administered general assistance program (SAGA medical or cash)? If so, state the source of the benefit, the effective date of the benefit and the date when your eligibility for benefits will be re-determined by the Department of Social Services.

8. Do you have any lawsuits pending?

- (a) If you do, what type of case is it?
- (b) Give the name, address, email address and phone number of the lawyer handling the case for you.
- (c) What amount you do expect to recover and when do you expect to receive it?
- (d) If you have already settled the case, please provide a copy of the settlement statement.

9. Do you expect to inherit any money or property in the next six months?

- (a) If you do, who do you expect to inherit from and where do they or where did they live?
- (b) What do you expect to inherit, what is its value and when do you expect to inherit it?
- (c) What is the name and address of the person or lawyer handling the estate and where is the probate court in which the action is filed?

10. Is anyone holding any money for you? If so, name the person, their relationship to you, their address and the amount of money they are holding.

11. Do you own any rental properties, by yourself, with someone else or in trust? If the answer is yes,

- (a) is the property residential or commercial?
- (b) please identify the location of the property or properties, include the address and identify your ownership interest.
- (c) do you derive any income from the property? Do you calculate your net income from the property on a weekly, monthly or yearly basis?
- (d) what are your expenses relating to the property or properties? Please state the amount of your mortgage payment, if any, and the amount of your taxes, insurance and utility payments, if any, and your method of payment of these expenses.
- (e) did you have to apply for a loan to finance any part of the real property or to finance the purchase of any personal property? If so, identify the item, state the amount of the loan and give a copy of the loan application.

12. Are you the beneficiary or settler of a trust?

- (a) If so, please identify the trust, the type of trust, the date of the creation of the trust, the name and address of the trustee and how the trust is funded.
- (b) How often do you receive a distribution from the trust and from whom, and in what amounts are the distributions?

By \_\_\_\_\_

I, \_\_\_\_\_, certify that I have reviewed the interrogatories set out above and the responses to those interrogatories and they are true and accurate to the best of my knowledge and belief.

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public/Commissioner of Superior Court

**CERTIFICATION**

This is to certify that a copy of the foregoing has been mailed, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ to (names and addresses of all opposing counsel and self-represented parties upon whom service is required by Practice Book Section 10-12 et seq.).

\_\_\_\_\_  
(Attorney Signature)

COMMENTARY: The above form implements Section 25A-16.